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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/757,363 | 01/14/2004 | Tatsuya Senoo | 230980-0265 | 3317 |

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| EXAMINER |
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RUSSELL, CHRISTINA MARIE

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| ART UNIT | PAPER NUMBER |
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2837

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|------------------------------|--|
| Office Action Summary | Application No. 10/757,363 | Applicant(s) SENOO ET AL. | |
| | Examiner Christina Russell | Art Unit 2837 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. JP 2003-007218 and JP 2003-185667, filed on 1/15/2003 and 6/27/2003.

Oath/Declaration

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not include the notary's signature, or the notary's signature is in the wrong place.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 8-12, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by the US patent to Takahashi (6,111,182).

6. In terms of claim 1 Takahashi shows, in column 19, lines 42-47, a means for setting the tempo in advance, in column 2, lines 20 and 21, a means for inputting musical tones, in column 2, lines 36-42, a means for storing the musical tones inputted, in column 2, lines 30-35, a means for storing the time information for said musical tones, and in column 2, lines 46-55, column 17, lines 65-67, and column 18, lines 4-5, a readout means for the readout of the musical tones based on their time information.

7. As for claim 2, Takahashi teaches the readout of the musical tones is started based on sampling and the stored timing information (see column 7, lines 44-46, column 9, lines 4-7, column 11, lines 53-55, and column 18, lines 13-16). As for claim 3, Takahashi teaches the location of the start time of the readout is acquired from the timing instruction based on the timing information of the stored musical tones (see column 6, lines 39-44, and column 8, lines 7-9 and 46-49).

Art Unit: 2837

8. As for claim 4, Takahashi teaches a saving or storing means for the location of the stored start time information (see column 6, lines 39-44). For example, he teaches of tracks to house the storage information (see column 3, line 44, and column 8, lines 42-43)

9. In terms of claim 5, the only difference in the claim relative to claim one is the storage of the timing information storage location. As stated above, Takahashi shows this when he discusses his two storage modes for addresses and separate tracks (see column 16, lines 59-65 and column 17, lines 11-15).

10. As for claim 6, since Takahashi encompasses both claim 1 and claim 5, the saving means for claim 1 are relative for claim 5.

11. Again, since Takahashi teaches both claim 1 and 5, claims 8, 9, 14, and 15 are rejected. Takahashi teaches the representation of the timing as either beats or bars relating to the set tempo (see column 19, lines 42-48).

12. As for claim 10 and 16, Takahashi teaches writing or reporting means for the timing information (see column 15, lines 45-56).

13. As for claim 11, Takahashi teaches the automatic performance, or playback, of the read performance data of the stored musical tones and timing information (see column 1, lines 20-27).

14. In accordance with claim 4, claim 12 is rejected because Takahashi teaches both claim 1 and claim 5.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi in view of the Computer Software Sonic Foundry ACID Pro-4.0.

17. Takahashi teaches all of the claimed elements, as discussed in claims 7 and 13 that are depended on claim 1 and 5, except for the waveform display. The music creating software ACID, teaches said waveform display, and has the capability of displaying both the waveform of the inputted musical tones and the waveform's timing information in relation to the set tempo bars (see Ch.5, pages 72-74, and 79-83). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the teaching of a waveform display from the software ACID, and add the feature into the already present timing information display of Takahashi's operation pad (see column 6, lines 6-9 and column 16, lines 28-30), in order to allow for more control of and access to the timing and tempo of the inputted waveforms.

18. Claims 17-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi in view of the US patent to Hayakawa (5,326,930).

19. Takahashi teaches all of the claimed elements, as discussed in claims 17-37 except for the tempo controller for recording a tempo and the use of a keyboard as the input device. Takahashi teaches, as in claims 17-26, the inputting, storing and processing of a sequence of musical data (see column 16, lines 33-37, column 5, 48-50, column 12, lines 14-17 and 53-56, column 14, lines 22-26, and figures 4-8), especially the work of the processor (see claim 7, column 23). Takahashi teaches the adjustment of the time interval of the sequence of musical data (see column 16, lines 19-26, and column 17, lines 51-56), and the correlation of the processor with the beginning location of the sequence (see column 17, lines 65-67, and column 18, lines 3-5). Takahashi also teaches that this time adjustment can either make the sequence shorter (see column 15, lines 24-44) or longer (see column 15, line 24 – column 16, line 18). Takahashi teaches of a tone generator to convert the data to tones (see column 1, lines 21-27). Takahashi also teaches, as stated before, the representation of the timing as either bars or beats (see column 19, lines 42-48).

20. As for claims 27-37, Takahashi again teaches of the accepting, storing, writing or recording, the reading out and the processing of musical signals, the storing location of the musical data, the adjusting of the length of the sequence of the data, whether shorter or longer, and the time representation as either bars or beats.

21. Hayakawa teaches the missing components that Takahashi does not discuss for claims 17-37. Hayakawa teaches a tempo controller for recording a tempo or means for

Art Unit: 2837

recording a tempo (see column 5, lines 5-10) and a keyboard as the input device (see column 4, lines 21-26). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use the teaching of a tempo controller of Hayakawa for the use of recording a tempo or rhythm to add extra control and capability to the electronic instrument producing musical tones of Takahashi. It would have been obvious to add an extra track to Takahashi's storage modes for the recording of the already controlled tempo or rhythm.

22. It would have also been obvious to one of ordinary skill in the art, at the time of the invention, to use the teaching of a keyboard as an input device of Hayakawa to the input of Takahashi's instrument for the input of musical tones or signals. Takahashi discusses the means for inputting external musical tone signals into the processor and Hayakawa adds the specifics of those musical tones coming from a keyboard.

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US publication to Hoshiai et al. (2004/0144237).

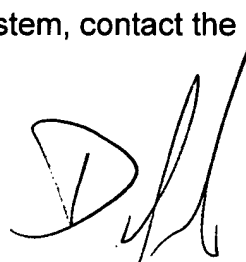
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Russell whose telephone number is 571-272-4350. The examiner can normally be reached on Mon-Fri, 8-4.

Art Unit: 2837

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CR
8/03/05



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